IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

C.W.P. No.11716 of 2004
Date of Decision: 21.5.2007

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Ujagar Singh Vs. State of Punjab and others

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Present : Mr. Suresh Singla, Advocate for the petitioner.
Mr. N.D.S. Mann,Addl.A.G. Punjab.
Mr.Rai Singh Chauhan, Advocate for respondent no.5.

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CORAM : HON'BLE MR.JUSTICE P. SATHASIVAM
HON'BLE MR.JUSTICE RAJIVE BHALLA

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1. Whether Reporters of Local Newspapers may be allowed to see the judgement ?
2. To be referred to the Reporters or not ?
3. Whether the judgement should be reported in the Digest ?

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RAJIVE BHALLA, J

Challenge in this writ petition is to orders dated 17.4.1997, 26.3.2001 and 25.3.2004 passed by the Collector, the Commissioner Patiala Division, Patiala and the Financial Commissioner (Appeals-II),Punjab, respectively, rejecting the petitioner's claim to be appointed as a Lambardar.

The demise of the incumbent Lambardar Sh.UttamSingh, led to a proclamation by the Collector for filling up of the vacancy. After following the process prescribed, namely; inviting applications, recommendations by the Tehsildar, the Naib Tehsildar, etc. and permitting prospective candidates to lead evidence, the Collector, Roop Nagar, vide

order dated 17.4.1997 held that respondent no.5 was the most suitable candidate to be appointed to the post of Lambardar. The petitioner, preferred an appeal before the Commissioner, which was dismissed vide order dated 26.3.2001. A revision filed before the Financial Commissioner, (Appeals-II) Punjab was also dismissed vide order dated 25.3.2004.

Counsel for the petitioner contends that a perusal of the order passed by the Collector, discloses a gross failure to consider the petitioner's merits. It is contended that the Collector held that as Balbir Singh, respondent no.5 had received a commendation certificate from President of India and belonged to the family of the deceased Lambardar, he was a better candidate to occupy the post of Lambardar. The Collector, however, ignored that the petitioner had also received a commendation certificate from the President of India, was supported by a large number of residents of the village, his father had remained a Panch for 15 years, his wife was a lady Panch and his over all reputation, made him a better candidate. It is contended that the Commissioner and the Financial Commissioner, (Appeals-II) also failed to consider the petitioner's merits and as the orders suffer from an error of jurisdiction, respondent no.5's selection be set aside.

Counsel for the respondents, however, contends that the Collector, recorded his subjective satisfaction, as to the merits of the candidates after a considered appraisal thereof. The Collector's choice was upheld by the Commissioner and the Financial Commissioner. The contentions raised by counsel for the petitioner do not merit acceptance.

We have heard learned counsel for the parties and perused the impugned orders.

The Collector, the Commissioner, as also the Financial

Commissioner, (Appeals-II) Punjab, have arrived at concurrent findings that respondent no.5 is the best candidate for the post of Sarpanch. As a general rule, the choice of a Collector, is final, except where the order discloses a lack of jurisdiction, an error of law or an error of fact so palpable, as to render his order arbitrary,capricious or unreasonable. In our considered opinion, the impugned orders do not suffer from any of the aforementioned disabilities. The Collector's subjective satisfaction is based upon sufficient material. The arguments advanced by the petitioner cannot be accepted, as selection of a Lambardar is best left to the discretion of the revenue authorities. The petitioner's merits were considered by three authorities and found insufficient.

Consequently, the impugned orders do not call for any interference and the present petition is dismissed.

(RAJIVE BHALLA)
JUDGE

21.5.2007
GS

(P. SATHASIVAM)
JUDGE